

TITLE PAGE

THE KANSAS CITY SOUTHERN RAILWAY COMPANY (KCS)
GATEWAY EASTERN RAILWAY COMPANY (GWWE)

RULES PUBLICATION KCS 9012
(change in Items 50, 80, 240, 310 and added Item 640)

RULES AND RELATED PROVISIONS APPLICABLE TO RAIL TRANSPORTATION OF COMMODITIES MOVING IN
INTERSTATE AND INTRASTATE COMMERCE VIA THE KANSAS CITY SOUTHERN RAILWAY COMPANY (KCS) AND
GATEWAY EASTERN RAILWAY COMPANY (GWWE)

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EXHIBIT 15
to Declaration of Thomas M. Eagan
in Support of Plaintiff's Motion for Summary Judgment

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KCS WEB SITE

ITEM 5

This publication is available on the Internet for viewing or sending directly to your printer. The KCS Home Page address is <http://www.kcsouthern.com>. From the Home Page click the 'For Customers' link, then choose 'Doing Business With KCS' link and click the 'Rules Publications' link. KCS has provided a link to the Adobe Homepage which will allow Acrobat Reader software to be downloaded onto your computer free of charge allowing you to print a copy from your personal computer. **An annual \$100.00 subscription fee will be assessed for those who wish to receive a hard copy.**

If you are not equipped to obtain a copy of this publication from KCS' web site, a hard copy will be mailed to you, if you submit a formal written request to the following address:

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In accordance with the Surface Transportation Board's policy decision under Ex Parte 528, Disclosure, Publication and Notice of Change of Rates and Other Service Terms for Rail Common Carriage, the request must be made annually in writing

ABSORPTION OF SWITCHING CHARGES

ITEM 10

Absorption of switch charges to and from industries performed by a foreign line at either origin or destination will be absorbed up to and including a maximum of \$300.00 per car in accordance with KCS 8100-Series, such supplements thereto and successive issues thereof.

AGGREGATE RULE

ITEM 20

Except as otherwise specifically provided in writing by KCS, point-to-point rates may not be combined to provide a through rate. Example: Customer has a rate quote from Point A to Point C (the "A to C Rate") Customer also has a rate quote from Point A to Point B (the "A to B Rate") and from Point B to Point C (the "B to C Rate"). The A to C rate applies, and Customer may not combine the A to B Rate with a B to C Rate unless specifically authorized in writing by KCS.

ALTERNATION OF CARLOAD RATES AND VARYING MINIMUM WEIGHTS

ITEM 30

When two or more carload rates are provided in the same rate item for application on the same commodity from and to the same points, the rate which results in the lowest charge based upon the actual or authorized estimated weight of the shipment, but not less than the minimum weight published in connection with the rate used, will apply.

APPLICATION GENERAL

ITEM 40

The provisions of this publication ("Conditions of Carriage") apply (a) to transportation in which KCS participates as a line-haul carrier when such transportation (i) originates on KCS and (ii) moves under single line rates or single factor joint line through rates offered by KCS itself or in conjunction with a connecting railroad as an exempt rate or as a regulated common carrier rate; or (b) to the KCS portion of through movements under AAR Accounting Rule 11 or other combination or proportional exempt or common carrier rates. In the absence of a separate agreement specifically covering the transportation, the terms and conditions of this publication constitute a unilateral offering of such terms and conditions of a bilateral contract between KCS and its connection lines on the one hand, and the user of the transportation service on the other upon acceptance by such user. Subject to the qualifications set forth in this Item below, tender of shipments to the originating rail carrier shall constitute acceptance of both the terms of service as set out in this publication and the rate governing the shipment.

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APPLICATION GENERAL (continued)

ITEM 40

When KCS is not the originating rail carrier, but participates in a movement under single factor or joint through rates, the Conditions of Carriage or comparable offering of the originating rail carrier if any, shall to the extent not inconsistent with this publication, along with the exempt or common carrier rates, apply to such transportation performed by KCS, unless specified otherwise in the terms of a rate quotation or separate contract specially covering the transportation involved.

If a shipment is tendered with different or additional terms and conditions submitted by shipper, such different or additional terms and conditions shall be deemed rejected by KCS unless electronically confirmed or agreed in a written document executed on behalf of KCS by a Marketing Group personnel of KCS, regardless of whether the shipment was accepted or moved by KCS.

Under this Publication the terms "car or car(s)", includes rail cars, TOFC and COFC units.

APPLICATION OF REFERENCED PUBLICATIONS

ITEM 50

Except where inconsistent with a provision of this document or other contractual terms specifically agreed to in writing the rules, regulations, charges and allowances of the following named publications shall, along with the terms of service specified herein, apply to all rail transportation provided by KCS and covered by the provisions of this publication.

AAR 2 hazardous Materials Shipping Descriptions (49-series STCC numbers)

Bureau of Explosives Rules BOE 6000 Series

Car Rental KCS 8100 Series

Car Interchanged or Delivered in Error KCS 8100 Series

Demurrage and Detention Rules and Charges KCS 6000 Series

Diversion and Reconsignment KCS 9213 Series

Empty Car Returned Unused KCS 8100 Series

Heavy Duty Flat Car Charges RIC 6740 Series

Mileage Allowance and Rules RIC 6007 Series

National Service Order 6100 Series

Official Railway Equipment Register RER 6412 Series

Official Intermodal Equipment Register OIER 6037 Series

Open and Prepay Station List OPSL 6000 Series (see Stations and Conditions Item herein)

Port Charge KCS 8100 Series

RRRA 6000 Master (Rail reorganization, rerouting, etc.)

Rules for Export Declarations & Customs Manifests, etc. RIC 6571 Series

Special Train Service KCS 8100 Series

Standard Transportation Commodity Code STCC 6001 Series

Switching KCS 8100 Series

Turning Car to Permit Loading/Unloading KCS 8100 Series

Uniform Freight Committee UFC 6000 Series

Weighing and Reweighing Rules and Charges KCS 8100 Series

References to specific publications herein include successor publications.

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ASSIGNMENT*ITEM 60*

Unless otherwise agreed in writing, no party to any agreement making reference hereto may assign, in whole or in part, any interest arising under any agreement referencing this publication without the prior written consent of the other parties. This consent will not be unreasonably withheld. No such consent will be required where the assignment is to a successor in interest of all or substantially all of the assets of a party. In the event of an assignment without the required consent, the party whose written consent should have been obtained may at its option to terminate the agreement.

BILL OF LADING*ITEM 70*

Services provided by carrier(s) subject to the conditions of this publication shall also be subject to the terms of the Uniform Straight Bill of Lading as contained in the Uniform Freight Classification UFC 6000-Series referred to herein, irrespective of whether a Bill of Lading is actually executed. Where provisions in this publication conflict with Bill of Lading provisions the provisions of this publication shall apply.

CARRIER LIABILITY - LOSS AND DAMAGE TO LADING*ITEM 80*

The following liability provisions will apply unless KCS and shipper agree in writing to different liability provisions:

GENERAL:

- A) On domestic moves that originate in the United States of America, shipper may, at their option, select freight loss and damage liability provisions set forth in 49 U.S.C.A. Section 11706 (Carmack) as explained in this Item. If 49 U.S.C.A. Section (Carmack) is not selected, the liability provision of this item will govern.
- B) The shipper agrees to indemnify and hold harmless the rail carriers from any loss, damage, personal injuries or death resulting from the shipper's failure to comply with the provisions contained herein. Acceptance of a shipment by the rail carriers for transportation shall not be considered as a waiver of shipper's liability.
- C) For shipments moving into and out of a foreign country on a single through bill of lading, see the liability provisions under Item 140.
- D) On shipments intended for export from the United States of America, rail carriers will not be liable for charges such as brokerage fees, fines, penalties, foreign marine or foreign country freight charges, import duties or other such charges on cargo that is lost, damaged or delayed in domestic transportation.
- E) Cargo Loss and Damage any loss or damage(s) that arise out of shipments that are delayed in transit are limited to the specific amount of actual cargo loss or damage occurring to product.

LIABILITY RESTRICTIONS:

- A) The rail carrier/party in possession will be liable as at common law except as provided herein.
- B) Rail carrier's liability will not exceed the actual amount of physical loss or damage sustained to the cargo plus any costs incurred through efforts to mitigate the loss or damage. Rail carriers will not be liable for special damages, consequential damages, indirect loss or punitive damages arising from loss, damage, suspected contamination, or delay to cargo, nor will rail carriers be liable for any losses attributable to fluctuation in the market value of the cargo. Furthermore, rail carriers will not be liable for any losses, direct or indirect, which result from an interruption of rail service, nor do rail carriers guarantee rail service on any scheduled time frame. Rail carriers will not be responsible for interest or attorney fees.

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CARRIER LIABILITY - LOSS AND DAMAGE TO LADING (continued)

ITEM 80

LIABILITY RESTRICTIONS: (continued)

(C) KCS and its connecting United States and Canadian rail carriers are not liable for loss or damages occurring in Mexico. Unlocated loss or damages from international land transport shipments that do not break bulk or are not visibly checked at U.S.A./Canadian entry/embarkation points are excluded from liability coverage and claims may be subject to compromise or declination unless clear and convincing evidence exists that damage occurred during the U.S.A./Canadian rail transport.

(D) Unless amended by written agreement prior to shipment, rail carrier's liability for the contents of any rail car will be limited to the actual value of the cargo or \$50,000.00, whichever is the lesser of the two amounts, except on TOFC and COFC units, rail carrier's liability for the contents of any rail equipment will be limited to the destination value of the cargo or \$250,000.00, whichever is the lesser of the two amounts.

(E) Claims or lawsuits for less than \$250.00 shall not be filed and no claim shall be paid if the amount of the loss or damage is found to be under \$250.00 per shipment.

(F) In the event of an act or omission of any party involved in the transportation process; (shipper, rail carriers, receiver) is not the sole cause but contributes to any loss or damage, each party will be liable for only that portion of the loss or damage caused by its negligence.

(G) Rail carriers are not liable for temperature, corrosion or humidity related losses unless mechanical protective service is requested, paid for and carrier owned or leased equipment is used.

(H) Rail carriers are not liable for loss or damage caused by defective equipment when such equipment is not owned, or leased by rail carriers.

(I) Cargo loss and damage claims presented to the KCS will be resolved for the account of all domestic U.S.A. and Canadian rail carriers, while in this country, involved in transportation of shipments moving under the provisions of this publication, unless a connecting rail carrier's tariff or agreement provides for more limited liability in which case the more limited liability provision will govern.

(J) Rail Carriers will not be liable for more than \$250.00 per car load for the amount of internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer previously withdrawn from bond, which were lost, rendered unmarketable or condemned by a duly authorized official by reason of fire, flood, casualty or breakage, destruction or other damage (but not including theft) resulting from vandalism or malicious mischief, if such damage or disaster occurred in the United States of America, and if such distilled spirits, wines or beer were held and intended for sale at the time of such disaster or other damage.

LOSS OR DAMAGE VERIFICATION AND DISPOSITION PROVISIONS:

(A) Rail carriers have the right to inspect, weigh or reject shipments at origin, en route or at destination for non-compliance with the provisions contained in the applicable publications.

(B) Rail carriers reserve the right to inspect damaged cargo. As a condition precedent to payment of any claims against carriers for loss or damage, the consignee must within twenty-four (24) hours of shipment's arrival, notify the destination carrier of any claimed damage and allow destination carrier or its agent to inspect.

(C) Failure of the rail carriers to inspect damaged cargo, for whatever reason, will not relieve the burden of the claiming party to establish that cargo was received in a damaged condition nor will it be considered an admission of liability by the rail carrier.

(D) Shipper and/or consignee must mitigate damage by accepting the damaged cargo unless it is totally worthless and is without salvage value. Shipper and/or consignee may not abandon damaged or partially damaged shipments to the rail carrier when the damaged shipments retain any value. Product that is abandoned to the rail carriers in an undamaged condition shall be sold for account of the beneficial owner and salvage proceeds only, less any salvaging expenses incurred, shall be remitted to the beneficial owner.

CLAIMS:

(A) As a condition precedent to payment of a claim, claims must be filed in writing to Freight Claims Department, 4747 Front Street, Kansas City, MO 64120 or via FAX 816.245-3194 or via E.D.I. within nine (9) months of the delivery date or in the event of non-delivery, within nine (9) months of the expected delivery date. Such written or electronic communication shall comply with the minimum requirements contained in 49 C.F.R. 1005.2(b). Claims may only be submitted by the beneficial owner or a party to the transportation agreement.

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CARRIER LIABILITY - LOSS AND DAMAGE TO LADING (continued)

ITEM 80

CLAIMS: (continue)

(B) In addition to the requirements of 49 C.F.R. 1005.2(b), all written claims must include the following documentation:

- 1) A demand for payment of a specific amount, with a statement of the formula or basis on which the damages are calculated, plus documentation to support the calculation.
- 2) Information identifying the rail shipment including equipment initials and numbers, shipper and receiver's names, notify party's name, shipping date and commodity.
- 3) Origin records or certification as to the condition and quantity of the cargo at the time tendered to the origin rail carrier. If shortage is involved, origin seal records must be furnished.
- 4) Destination records as to the condition and quantity of the cargo at the time received from the destination rail carrier. If shortage is involved, destination seal records must be furnished.
- 5) Verification of the amount claimed such as certified invoices or repair bills.
- 6) Evidence as to the disposition of the damaged cargo.
- 7) Evidence that shipment was loaded in compliance with the provisions herein.
- 8) Carrier reserves the right to summarily deny any and all claims submitted that does not contain all or part of the aforementioned documentation.

CARMACK LIABILITY:

49 U.S.C. Section 11706 provides for full value liability and other liability terms for the rail carriers and the shipper. To make a shipment pursuant to the terms of 49 U.S.C. Section 11706, the shipper must comply with all of the following provisions:

- 1) Shipper must notify rail carrier no less and seventy-two (72) hours before the rail car is released for transportation that the shipper chooses Carmack Liability protection.
- 2) The shipper must have prepaid the Carmack Liability rate obtained from KCS' Marketing Department.
- 3) The shipping instructions are subject to a specific pricing authority, which shall be specifically noted.
- 4) Carmack liability coverage is not available for shipments that originate in Mexico.

FREIGHT LOSS AND DAMAGES LAWSUITS:

All lawsuits must be filed within eighteen (18) months from the actual loss or damage or in the event of non-delivery from the expected date of delivery by rail carrier.

SEALS:

It is the sole responsibility of the shipper to determine the type of protection necessary to protect the cargo, including but not limited to the use of seals and security devices. KCS does not apply or determine if seals or security devices are appropriate or adequate, except in the case of contamination (see paragraphs below). Nor does KCS, in all cases, inspect shipments for seal integrity. In the event that a seal or a security device is broken, or missing, the absence or breach of a seal will not create a presumption of contamination or theft without actual physical evidence. Documentation of the application of seals or security devices at origin is the responsibility of the shipper and the seal number(s) must be included on the bill of lading or shipping instructions and in any claim application.

For KCS to consider a claim for contamination of cargo the shipment must be sealed by the actual shipper or its agent. The minimum seal will be a barrier type seal meeting American Society for Testing and Materials (ASTM) standards, a cable seal 1/8 inch in diameter, a high security bolt seal, or its equivalent. All seals utilized by the shipper will be sequentially numbered and recorded on the bill of lading or shipping instructions. The shipper will maintain for one year a record of the date and time of the application of seal, and the identity of the person applying the seal.

KCS will not consider any claim from cargo contamination unless the above minimum standards are met.